

Internal Revenue Service

Department of the Treasury

District
Director

P.O. Box 1680, GPO Brooklyn, N.Y. 11202

SEP 12 1988

Date:

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(9) of the Internal Revenue Code.

The evidence presented disclosed that you were incorporated on [REDACTED] under Section [REDACTED] of the Not-For-Profit Corporation law in the State of [REDACTED].

The purpose or purposes for which the organization was formed are as follows:

To engage in charitable and benevolent activities to benefit the employees, and their families, of the [REDACTED];
and

To sponsor and engage in sports and recreational activities in furtherance of its charitable and benevolent purposes among the said employees; and

To engage in all other activities of a charitable nature permitted under the laws of the State of [REDACTED].

Your Certificate of Incorporation also provides that:

Notwithstanding any other provisions of these articles, the corporation is organized exclusively for one or more of the purposes as specified in Section 501(c)(3) of the Internal Revenue Code of 1954, and shall not carry on any activities not permitted to be carried on by a corporation exempt from Federal income tax under IRC Section 501(c)(3) or corresponding provisions of any subsequent Federal tax laws.

In the event of dissolution, all of the remaining assets and property of the corporation shall after necessary expenses thereof be distributed to another organization exempt under section 501(c)(3) of the Internal Revenue Code of 1954, or corresponding provisions of any subsequent Federal tax laws, or to the Federal government, or state or local government for a public purposes, subject to an order of a Justice of the Supreme Court of the State of [REDACTED].

The organization provides guidance to facility managers concerning the working environment of air traffic facilities to improve the quality of the work environment by providing a forum for employees to express concern about various technical and managerial procedures.

The revenue is provided from commissions on video games and newspaper receipts. The games are not owned by the organization. The games are located in employee work areas. These revenues are used for the benefit of all employees employed at the [REDACTED] as follows:

- 1- Maintains coffee fund
- 2- Provides flowers, savings bonds, and plaques commemorating events such as marriages, births, deaths, or anniversaries to members and families and condolences upon member or family deaths.

Membership in your organization is automatic upon employment with the [REDACTED] members. There are currently approximately [REDACTED] members.

IRC 501(c)(9) provides for the exemption from federal income tax of voluntary employees' beneficiary associations providing for the payment of life, sick, accident, or other benefits to their members and their member's dependents or designated beneficiaries, if no part of their net earnings inure to the benefit of any private shareholder or individual (other than through such payments).

Per Section 1.501(c)(9)-3(d) of the Income Tax Regulations, the term "other benefits" includes only benefits which are similar to life, sick, and accident benefits and are intended to safeguard or improve the health of the member or the member's spouse or dependents or to protect against a contingency which interrupts earning power.

Section 1.501(c)(9)-4(a) of the Income Tax Regulations states that no part of the net earnings of a VEBA may inure to the benefit of any private shareholder or individual other than through the payment of permitted benefits.

Generally, dispositions of property by a VEBA, except to pay permitted benefits and reasonable administrative expenses, may constitute inurement.

[REDACTED] provides benefits to its members that are not permissible under Section 501(c)(9) of the Code. The net earnings of this organization inure to the benefit of its members. The organization's assets will be distributed to organizations described in Section 501(c)(3) of the Code in the event of dissolution. Its organizational document contains language that is inconsistent with 501(c)(9) purposes.

Income Tax Regulation 1.505(c)-IT states, in part, that IRC 501(c)(9) applicants organized on or before July 18, 1984 must apply for tax exempt status before February 4, 1987. Organizations that fail to file their Application 1024 timely receive tax exempt status effective only as of the date the application was filed.

Our records indicate that your Form 1024 was postmarked [REDACTED], which is considered the effective date of filing that form.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(9) of the Code and propose to deny your request for exemption under that section.

Pursuant to Section 505(c) of the Code, if tax exemption was granted, the effective date of exemption would have been [REDACTED], the date the Application 1024 was filed.

Section 501(c)(4) of the Code provides, in part, for the exemption from Federal income tax of local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational or recreational purposes.

We have also determined that you fail to qualify for tax exempt status under Section 501(c)(4) of the Code because your earnings are not devoted exclusively to charitable, educational or recreational purposes.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the document ion stated in the instructions will be returned for completion.

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If we do not hear from you within that time, this determination will become final.

Sincerely yours,

A solid black rectangular box used to redact the signature of the District Director.

District Director

Enclosure: Publication 892